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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,612	05/25/2005	Dorin Olimpiu Petrescu	1029.1025	2280
20311	7590	06/15/2007		
LUCAS & MERCANTI, LLP 475 PARK AVENUE SOUTH 15TH FLOOR NEW YORK, NY 10016			EXAMINER DAVIS, RUTH A	
			ART UNIT 1651	PAPER NUMBER
			MAIL DATE 06/15/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/536,612	<b>Applicant(s)</b> PETRESCU, DORIN OLIMPIU	
	<b>Examiner</b> Ruth A. Davis	<b>Art Unit</b> 1651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 6-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I, claims 1 - 5 in the reply filed on March 29, 2007 is acknowledged. The traversal is on the ground(s) that the inventions are not distinct and independent, that the search is overlapping and that there is a special technical feature of using calcium chloride as the coagulant. This is not found persuasive because the inventions are clearly distinct in that one group is drawn to a method for making a fibrin membrane and the other is for the membrane itself. Furthermore, while the searches may overlap, an overlapping search is not a coextensive search. Moreover, a reference that would anticipate one group, may not anticipate or even make obvious the invention of the other group. Finally, regarding applicant's identified special technical feature, it is noted that in order for the groups to contain a special technical feature, it must be a technical feature that contributes over the prior art. As evidenced by the references and rejections below, calcium chloride was a known and used coagulant in the art at the time the invention was made.

The requirement is still deemed proper and is therefore made FINAL.

Claims 1 – 12 are pending; claims 6 – 12 are withdrawn as being drawn to non-elected subject matter; claims 1 – 5 have been considered on the merits.

***Claim Objections***

2. Claim 5 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim (i.e. claim 3). See MPEP § 608.01(n).

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1 – 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 and its dependents are drawn to a process for making a fibrin membrane, however are rendered vague and indefinite because the while the method preamble refers to making a membrane, the final step is drawn to a clot. It is unclear if applicants intend to make a membrane or a clot, as there do not appear to be any positive steps recited to manufacture the membrane.

In claim 2, line 1, “said physiological clotting agent” lacks sufficient antecedent basis.

In claim 3, line 2, the recitation of “physiological” does not grammatically match the recitation of “physiologic” in claim 1. To comply with proper antecedence, applicant may prefer to amend one of the terms so that they are the same.

Claim 5 is confusing because the term “low boiling alcohols” has not been clearly defined by the claimed language or specification.

Claim 5 is further indefinite for reciting “in particular”, because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 – 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beretta (WO 98/58689) and Stroetmann (US 4427651).

Applicant claims a method for making a fibrin membrane, the method comprising adding a coagulant to blood plasma to gel and form a clot; removing transudates with an absorbent; washing the clot with dehydrating and softening agents; drying and sterilizing the clot. The coagulant is calcium chloride; the absorbents are inorganic salts, specifically NaCl, NaHCO<sub>3</sub> or mixtures thereof; and the softening agents are ethanol and propanetriol (glycerol).

Beretta teaches a method for making a fibrin clot/membrane, wherein plasma is contacted with calcium chloride (p.2, examples).

Stroetmann teaches methods for making fibrin clots/membranes wherein plasma is coagulated with an agent followed by washing with NaCL (col.9 line 36-45).

At the time of the claimed invention, it would have been obvious to one of ordinary skill in the art to practice the instant steps as they were well known and practiced in methods for making fibrin clots and membranes. Although the references do not teach the claimed steps of dehydrating, drying and/or sterilizing with the instant softening agents, it was well known to do so in the art at the time the claimed invention was made. Moreover, at the time of the claimed invention, one of ordinary skill in the art would have been motivated by routine practice, as evidenced by the cited references, to practice the instant steps with a reasonable expectation for successfully making a fibrin clot/membrane.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth A. Davis whose telephone number is 571-272-0915. The examiner can normally be reached on M-F 7:00 -3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ruth A. Davis/  
Primary Examiner  
Art Unit 1651

June 8, 2007